

United States District Court

FILED
At Albuquerque NM

FEB 17 2011

MATTHEW J. DYKMAN
CLERK

DISTRICT OF

New Mexico

UNITED STATES OF AMERICA

V.

CRIMINAL COMPLAINT

Jose Luviano

CASE NUMBER: 11-MJ-353

(Name and Address of Defendant)

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. On or about February, 16, 2011 in Bernalillo County, in the

District of New Mexico defendant(s) did, (Track Statutory Language of Offense)

possession with intent to distribute more than five hundred grams of a mixture and/or substance containing methamphetamine, a controlled substance

in violation of Title 21 United States Code, 841(a)(1) and (b)(1)(A)

I further state that I am a(n) Special Agent and that this complaint is based on the following

Official Title

facts:

SEE ATTACHED AFFIDAVIT

Continued on the attached sheet and made a part

☒ Yes ☐ No

Patricia Yazzie

Signature of Complainant

Sworn to before me, and subscribed in my presence,

Date

17 February 2011

CHARLES E. FUGLE
MAGISTRATE JUDGE

Name and Title of Judicial Officer

at Albuquerque, New Mexico
City and State

Signature of Judicial

AFFIDAVIT

I, Patricia Yazzie, Special Agent of the Drug Enforcement Administration (DEA), being duly sworn, depose and state:

I am a Special Agent (SA) of the Drug Enforcement Administration and have been so employed since September of 2010. I am currently assigned to the DEA Albuquerque District Office, specifically assigned to investigate federal narcotics offenses. I am a law enforcement officer of the United States within the meaning of Title 18, United States Code Section 2510(7), who is empowered to conduct investigations of, and make arrests for, narcotic offenses enumerated in Title 18, United States Code Section 2516. I have successfully completed a nineteen (19) week DEA Basic Agent Training Academy at the DEA Academy in Quantico, Virginia. This training included instruction in the investigation of federal drug crimes including, but not limited to Title 21, United States Code Sections 841, 846, 959, and Title 18 United States Code Sections 2, 1956, and 1957.

The facts set forth in this affidavit are known to me as a result of my investigation and interviews with other agents and law enforcement officers. These are not all the facts known to me throughout the course of this investigation, but rather only those which are essential to establish probable cause for charging a complaint against Jose Luviano for the federal violations listed herein.

This Affidavit is made in support of the issuance of a Criminal Complaint charging Jose Luviano with violations of Title 21 USC Section 841(a)(1) and (b)(1)(A), possession with intent to distribute more than five hundred grams of a mixture and/or substance containing methamphetamine, a controlled substance.

PROBABLE CAUSE

On February 16, 2011, at approximately 8:28 a.m. New Mexico State Police (NMSP) Sergeant Nick Ramos was on duty in a marked vehicle conducting routine patrol on I-40 in the area of mile marker 140. NMSP Sergeant Ramos observed a 2007 gold Volkswagen station wagon traveling eastbound on I-40. NMSP Sergeant Ramos observed the driver of the Volkswagen not wearing his seatbelt. NMSP Sergeant Ramos initiated a traffic stop on the Volkswagen bearing Wisconsin plate 530SFG.

NMSP Sergeant Ramos made contact with the driver and registered owner who was identified as Jose Luviano. NMSP Sergeant Ramos stated there was an adult female passenger, identified as Maria Esmeralda Solorio and a small child. NMSP Sergeant Ramos subsequently obtained both verbal and written consent from Luviano to search the Volkswagen. NMSP Sergeant was assisted with the search of the Volkswagen by his canine, Terry. NMSP Sergeant Ramos' canine Terry alerted to the inside left (driver side) rear panel. NMSP Sergeant Ramos searched that area and

discovered six (6) bundles wrapped tightly with black electrical tape. Five (5) of the bundles were found to contain methamphetamine and one (1) of the bundles was found to have an unloaded broken down Colt M1991A1 38 Super firearm (#CJ17933).

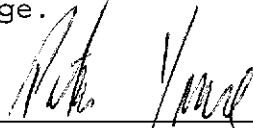
NMSP Sergeant Ramos arrested Mr. Luviano and detained Maria Esmeralda Solorio and her young child. All three subjects were transported to the State Police District 5 Office in Albuquerque, NM. Special Agent's R. Rodriguez and P. Yazzie made contact with Mr. Luviano and conducted an interview. Prior to the interview, Mr. Luviano was read the Miranda Warnings in Spanish by SA Rodriguez. Mr. Luviano stated he understood the warnings and agreed to answer questions.

Mr. Luviano said about two weeks ago he meet an unknown subject on the street in Oklahoma City, OK. Mr. Luviano said the unknown subject asked him if he could travel to Los Angeles, CA and pick something up for him. Mr. Luviano stated the subject never told him what he would be picking up. Mr. Luviano said he traveled to an unknown suburb of Los Angeles, CA and left his vehicle parked on the side of the street. Mr. Luviano said he believed something was placed in his Volkswagen but did not know what. Mr. Luviano stated he did not know that drugs or a gun had been placed in his vehicle. Mr. Luviano did not want to provide any further details about his trip to Los Angeles, CA. and at this point the interview was terminated.

On February 16, 2011 SA Yazzie field tested two of the bundles and they tested positive for the presence of methamphetamine. The five bundles were weighed after the field tests were conducted. They weighed 3.95 gross kgs. (8.69 pounds).

Based on the aforementioned information, I believe that Jose Luviano illegally possessed with the intent to distribute over five hundred grams of methamphetamine in violation of Title 21 USC Section 841(a)(1) and (b)(1)(A), possession with intent to distribute more than five hundred grams of a mixture and/or substance containing methamphetamine, a controlled substance.

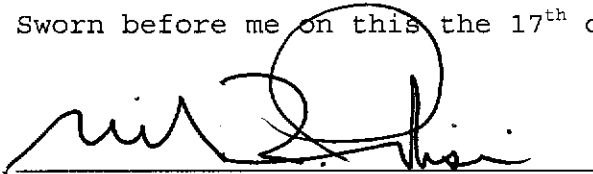
I declare under the penalty of perjury that the foregoing is true and correct to the best of my knowledge.



Patricia Yazzie
Special Agent
U.S. Drug Enforcement Administration
Albuquerque District Office

*Telephonically approved by James Braun, Assistant United States Attorney, District of New Mexico, February 17th, 2011 at approximately 8:20 a.m.

Sworn before me on this the 17th day of February, 2011

A handwritten signature in black ink, appearing to read 'Richard L. Puglisi', written over a horizontal line.

Richard L. Puglisi
Chief United States Magistrate Judge
New Mexico Judicial District
Albuquerque, New Mexico